

HOUSING TRUST FUND CORPORATION
Environmental Compliance Handbook

Office of Community Renewal state funded program:
Land Bank Initiative (LBI)

TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	ENVIRONMENTAL COMPLIANCE PROCESS: OVERVIEW	3
III.	COMPLETING THE ENVIRONMENTAL COMPLIANCE CHECKLIST	5
A.	HISTORIC & CULTURAL RESOURCES.....	6
B.	FLOODPLAIN MANAGEMENT	7
C.	ZONING.....	9
D.	COASTAL ZONE MANAGEMENT	11
E.	SITE CONTAMINATION (HAZARDOUS MATERIALS)	13
F.	LEAD-BASED PAINT.....	15
G.	ASBESTOS CONTAINING MATERIALS	16
H.	RADON.....	17
I.	WETLANDS	20
J.	ENDANGERED SPECIES.....	22
K.	AGRICULTURAL DISTRICTS	24
L.	SMART GROWTH	25

I. INTRODUCTION

Awards made under the Office of Community Renewal's state funded grant programs are subject to requirements of the State Environmental Quality Review Act (SEQR) at 6 NYCRR Part 617. Compliance applies to all participants in the development process, including public or private nonprofit or for-profit entities, or any participating contractors.

The primary objective of the environmental review process is to identify specific environmental factors that may be encountered at individual project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors.

Unidentified Project Sites

A **Programmatic** Environmental Compliance Checklist must be completed to document the programmatic environmental review procedures that will apply to **all** project sites later selected for participation. When the review of the Programmatic Environmental Compliance Checklist is complete, the Local Program Administrator (LPA) will receive a determination letter from the Housing Trust Fund Corporation's (HTFC) Environmental Analysis Unit (EAU). Programs proposing multiple demolition-only projects within single municipality(ies) must estimate the total number of acres to be disturbed by the demolitions in each municipality. If the total disturbance in any one municipality may exceed 1.25 acres, additional SEQRA review may be required during the site-specific review.

Identified Project Sites – Capital Activities

Following receipt of the determination letter, individual **Site-Specific** Environmental Compliance Checklists and associated supporting documentation must be prepared and retained in project files and submitted to the Office of Community Renewal (OCR), upon request, at the time of Project Set Up for all selected project sites, which is the point of formal commitment of program funds to begin site work.

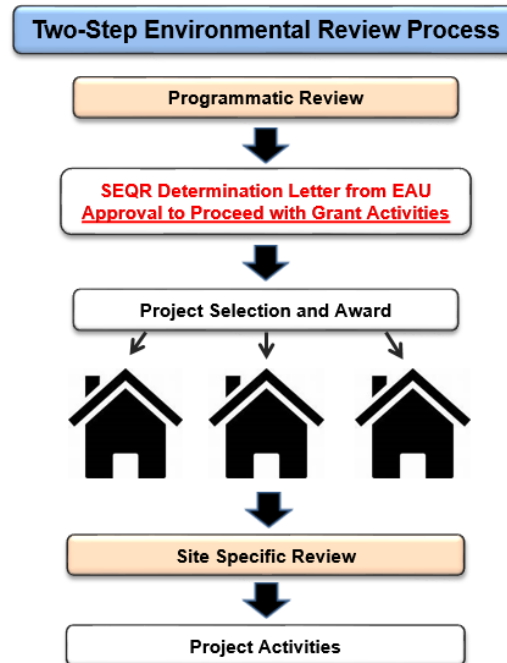
Identified Project Sites: Non-capital activities, Acquisition, pre-development only

Following receipt of the determination letter, individual **Site-Specific** Program Description Forms must be submitted for non-capital activities. The form will document the location and nature of the work to be completed and provide verification that capital activities will not take place. The form must be provided with the Project Set up form to formally commit funds for the project or activity. The Site-Specific Environmental Compliance Checklist must note if additional demolition-only projects will occur in the same municipality. If so, the total number of expected demolitions must be estimated and if they will exceed a combined total of 1.25 acres of disturbance, additional SEQRA review may be required.

PLEASE NOTE: Before taking any physical action on a site, or incurring costs related to a specific activity, the Site-Specific Environmental Checklist must be completed, submitted for review and approved by OCR. Costs incurred for activities completed prior to the SEQR determination and review of Site-Specific Checklists will not be eligible for reimbursement.

II. ENVIRONMENTAL COMPLIANCE PROCESS: OVERVIEW

The following is a step-by-step process to obtain environmental clearance and to develop an appropriate set of environmental review procedures. All referenced forms can be found online here: <https://hcr.ny.gov/land-bank-initiative>



STEP 1: Prepare Programmatic Environmental Review

A complete Programmatic Review package must include:

1. Environmental Compliance Checklist

The Environmental Compliance Checklist must be completed for a *Programmatic Review* for each awarded contract. The checklist documents each procedure that the LPA will implement to comply with environmental regulations at **all** project sites as a requirement of HTFC environmental clearance.

2. Program Description Form

The Program Description Form must be completed to describe the planned program activities. Sufficient detail must be provided to allow the Environmental Analyst to classify the program under SEQR. Specifically, the Program Description Form must identify if participating projects will or may involve ground disturbance, tree cutting, or new construction, site location in or adjacent to Agricultural Districts, work on a building or site determined by SHPO to have historic or cultural significance, zoning changes or change in actual building use.

3. Supporting Documentation

All applicable maps and supporting documentation must be provided as outlined within the Environmental Compliance Checklist.

STEP 2: Submit to the Office of Community Renewal (OCR)

Send the completed Programmatic Review package containing the Environmental Compliance Checklist, Program Description Form and required maps and supporting documentation as a single PDF document by email to: OCRinfo@hcr.ny.gov .

- Include the associated SHARS ID in the email subject line;
- Please contact the Office of Community Renewal for instructions to submit large format documents that cannot be emailed.

STEP 3: HTFC Issues Determination Letter to Local Program Administrator

HTFC will review the forms and supporting documentation submitted. Revisions or additional documentation may be requested if the materials are determined to be incomplete. Following review by the OCR and the HTFC Environmental Analysis Unit, a determination letter will be issued.

The determination letter must be kept on file with the Environmental Compliance Checklist, as well as all other documentation related to the environmental review for subsequent HTFC monitoring.

STEP 4: Site Selection and Site-Specific Environmental Review

A Site-Specific Environmental Review Checklist must be submitted for each project site at the time of Project Set Up. **These individual Site-Specific Checklists must be submitted to the OCR prior to beginning project activities.** Checklists will require additional supporting documentation and review in circumstances such as:

- Ground disturbance, tree cutting, or new construction;
- Projects in, or adjacent to, Agricultural Districts;
- Work on a building determined by SHPO to have historic or cultural significance;
- Zoning changes;
- A change in actual building use (whether or not this change is locally regulated);
- If the work constitutes a SEQR Unlisted action.

Projects in the categories described above may require either the municipality to conduct a SEQR coordinated review or a review and determination of significance by the HTFC Board.

STEP 5: Conduct Program Activities in Accordance with Policies Described in the Environmental Compliance Checklist and HTFC Determination Letter

The purpose of the environmental review process leading to the HTFC Environmental Determination Letter is to:

1. Identify specific measures to comply with environmental regulations or mitigate adverse impacts at identified project sites or;
2. Provide a roadmap for subsequent environmental review of individual project sites at the time they are selected.

The LPA is responsible for following the procedures established in the Programmatic Environmental Compliance Checklist and Determination Letter.

III. COMPLETING THE ENVIRONMENTAL COMPLIANCE CHECKLIST

Each section of the following Environmental Compliance Handbook outlines specific required compliance procedures and recommended compliance language for use on both the Programmatic and Site-Specific Environmental Checklists.

Sample compliance language has been provided throughout the Handbook for use on both the Programmatic and Site-Specific Environmental Review Checklists. Local Program Administrators are strongly encouraged to use the language provided as it has been specifically crafted to streamline the environmental review process, prevent delay, and comply with the requirements of each section of the Checklists.

Unidentified Project Sites (Programmatic Review)

For the Programmatic review, the Environmental Compliance Checklist is intended to address the local program and determine which regulations may apply to **one or more individual project sites once identified, and those which will not be applicable under any circumstances**. For each regulation, a written compliance procedure must be described in the right-hand column of the checklist. This will include the procedure to review individual project sites if applicable.

Identified Project Sites (Site-Specific Review)

The Environmental Compliance Checklist for Site-Specific review should be tailored to the specifics of each individual project at the time of Project Set Up. For both Programmatic and Site-Specific review, Local Program Administrators may be contacted for more information if documentation submitted with either Environmental Checklist is considered insufficient or incomplete.

A. Historic & Cultural Resources

State Historic Preservation Office (SHPO) Review Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 requires a publicly funded project to be reviewed for its potential effect on historic properties and cultural resources. LPAs must submit proposed project scopes of work for each participating project to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP or SHPO) for review. This review is required for all funded activities.

Programmatic Checklist Language:

“Each project will be submitted to SHPO through the CRIS database for an impact determination which will ensure compliance with the New York State Parks, Recreation and Historic Preservation Law. No site activity will occur until SHPO responds with a determination.”

Site-Specific Checklist Language:

Source documentation: SHPO Determination Letter

“The SHPO No Adverse Impact determination is attached.”

“SHPO identified specific conditions as described in the attached determination. All conditions will be followed and incorporated into the project scope of work.”

The SHPO Cultural Resource Information System (CRIS) can be accessed here: <https://cris.parks.ny.gov>

The HTFC SHPO Electronic Project Submission Guide can be found here: <https://hcr.ny.gov/land-bank-initiative>

B. Floodplain Management

The Local Program Administrator must consider 6 NYCRR Part 502, *Floodplain Management Criteria for State Projects* if any projects are in a Special Flood Hazard Area (SFHA). Each site in the Program must be reviewed for its location with regard to floodplains.

Source documentation for these determinations must be provided and can include a copy of a FIRM map, with the Panel Number and Effective Date, or communication from the local Floodplain Manager responsible for a community's participation in the National Flood Insurance Program. If a FIRM map is not clear, a determination should be made by the unit of local government and documented in a letter.

Programmatic Checklist Language:

- If the service area is not within an SFHA, compliance language might be:

"The service area does not include any buildings or sites within a SFHA. A copy of the FIRM map, with the Panel Number and Effective Date is included."
- If the service area includes any buildings within an SFHA, a determination must be made for each assisted project site to evaluate if the site is within the SFHA and whether the proposed scope of work can be classified as "substantial improvement" per 6 NYCRR Part 502.2(bb)(1), *Floodplain Management Criteria for State Projects*. Compliance language should include:

"A portion of the service area is located in the 100-year floodplain. Each project site will be evaluated to determine if it is within the 100-year floodplain, and whether it will involve 'substantial improvement'. The LPA will comply with 6 NYCRR Part 502, Floodplain Management Criteria for State Projects."
- If FEMA has not completed a study to determine flood hazard for a program location and no flood map has been published, compliance language might be:

"Panel not printed. Each project site will be evaluated to determine if it is within the 100-year floodplain, and whether it will involve 'substantial improvement'. The LPA will comply with 6 NYCRR Part 502, Floodplain Management Criteria for State Projects."

Site-Specific Checklist Language:

- If the project is not in the SFHA, compliance language might be:

"The project is not within a SFHA. A copy of the FIRM map, with the Panel Number and Effective Date is included."

Source documentation must clearly identify the project location on the FIRM map. Additional documentation may be required if proximity to floodplain is unclear. This could include a formal determination by the local municipal floodplain manager and documented in a letter.

- If it is determined that the project site is within an SFHA, it must be evaluated and documented whether the proposed scope of work can be classified as “substantial improvement.” Substantial Improvement is defined as, “*any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the replacement value of the structure,*” per 6 NYCRR Part 502.2(bb)(1), *Floodplain Management Criteria for State Projects*. If the project is not classified as substantial improvement, compliance language might be:

“The project is within the 100-year floodplain but is not classified as ‘substantial improvement’ as per 6 NYCRR Part 502, Floodplain Management Criteria for State Projects as documented in the attached.”

Source documentation must include a determination and explanation from the LPA or municipality as to why the project does not meet the definition of substantial improvement.

- If the project site is within the SFHA and will involve demolition with substantial improvement or new construction of structures, public infrastructure or utilities, compliance language might be:

“The project is within the 100-year floodplain, and will involve ‘substantial improvement’, floodplain design measures will be implemented per 6 NYCRR Part 502, Floodplain Management Criteria for State Projects as documented in the attached.”

Source documentation in this instance must include a certification from a design professional certifying that specific floodplain design measures are being implemented as per 6 NYCRR Part 502, *Floodplain Management Criteria for State Projects*.

- For demolition-only projects within the SFHA:

“The project is within the 100-year floodplain and involves demolition only. The LPA certifies that any future development of the project site will comply with 6 NYCRR Part 502, Floodplain Management Criteria for State Projects, the municipal building code, and the Floodplain Disclosure Law at NYS RPL 231-B.”

Instructions for creating a FIRM Map

1. Go to: <https://msc.fema.gov/>
2. Enter the project site address in the search tool and hit enter or select search
3. Click on the *Dynamic Map* icon to produce a map
4. If the created map does not include the full-service area, click on *Go To NFHL Viewer* from the main page.
5. Click on the pin tool icon and drop the pin in the service area.
6. Change the Size to *Full FIRM*, scroll down, and click *Execute*
7. *Save*

FIRM maps are available online here: <https://msc.fema.gov/>

6 NYCRR Part 502, *Floodplain Management Criteria for State Projects* is available online here:

https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf

C. Zoning

Each site to be assisted by Office of Community Renewal state funded programs must be reviewed with regard to its zoning classification and proposed use. Project sites must conform to the relevant local land use plans and must receive all necessary zoning and site plan approvals and permits. The project may be classified as an Unlisted action under the State Environmental Quality Review Act (SEQR) and require further review if a zoning change is required or the renovation project will result in a change in building use.

Documentation for these determinations must be provided for Site-Specific reviews. Documentation should include a letter from the local municipality confirming the proposed use of the project is permitted according to the existing zoning classification of the project site. If the project requires a variance or special use permit for issuance of a building permit, approval documentation should be provided. The Checklist language must also specifically communicate if a participating project will involve a change in building use (whether or not this change is locally regulated).

If a project involves a zoning change, either a SEQR Coordinated Review should be conducted, or the project will be reviewed by the HTFC Board.

Programmatic Checklist Language:

- If specific project sites have yet to be identified, compliance language might be:

C1: *"A zoning determination will be provided to identify if any program activities will require local approvals, variances, special permits or any other modifications to the existing zoning classification of each project."*

C2: *"Each project will be evaluated to determine if the project will result in a change in building use."*

Site-Specific Checklist Language:

- If the project will comply with the existing zoning classification and does not involve a change in use of the building, compliance language might be:

C1: *"The project will not require zoning modifications, variances or a special use permit for issuance of a building permit. See attached documentation."*

C2: *"The existing use of the building is commercial; the proposed use of the building is commercial."*

- If the project will require any zoning modifications or will result in a change in building use, compliance language might be:

- C1: *“The project requires a special use permit; approval documentation is attached.”*
- C2: *“The existing use of the building is industrial; the proposed use of the building is residential.”*

D. Coastal Zone Management

19 NYCRR Part 600, *Coastal Zone Management* establishes requirements for review of a state-funded project in the Coastal Zone if its SEQR classification is Type 1 or Unlisted. In New York State, the Coastal Zone includes land areas adjacent to Lakes Erie and Ontario, the St. Lawrence, East, Harlem and Niagara Rivers, the Hudson River south of the Federal Dam in Troy, the Kill van Kull and Arthur Kill, Long Island Sound, the Atlantic Ocean, and the connecting water bodies, bays, harbors, shallows and marshes.

Source documentation for these determinations must be provided and can include a copy of the applicable Coastal Zone boundary map or correspondence with the local municipality.

Programmatic Checklist Language:

- If the program service area or buildings are not located in the coastal zone, compliance language might be:

“The project site or service area is not located within the coastal zone as documented in the attached.”

- If the program service area is located within the designated coastal zone, compliance language might be:

“The service area is located within the coastal zone and the LPA will comply with 19 NYCRR Part 600.”

Site-Specific Checklist Language:

- If the identified project site is not located in the coastal zone, compliance language might be:

“The project site is not located within the coastal zone as documented in the attached coastal zone boundary map.”

- If the identified project site is located in the coastal zone, compliance language might be:

“The project is located within the coastal zone but is not a Type I or Unlisted action.”

“The project is located within a coastal zone and is classified as a Type I or Unlisted action; the LPA will comply with 19 NYCRR Part 600 and the HTFC will provide notification of the action to New York State Department of State prior to clearance.”

Accessing the Coastal Zone Boundary Map

1. Go to: <https://dos.ny.gov/coastal-atlas>
2. Enter an address of the service area or project site and hit enter
3. Make sure the Landward Coastal Area Boundary layer is “checked” in the Legend
4. Zoom in as necessary to show the service area or project site in relation to the nearest Coastal Boundary
5. Click Tool icon on the top right corner of the map
6. Select *Print Map*
7. If necessary, enable Pop-Ups on the browser by selecting ‘Always allow pop-ups from <http://opdgig.dos.ny.gov> and click *Done*
8. Click *Export*
9. Save

NOTE: In some cases, a Program could be within a Local Waterfront Revitalization Program (LWRP) area. Administrators must contact the municipal or county planning departments to determine if the program is within a LWRP boundary.

E. Site Contamination (Hazardous Materials)

Projects funded under Office of Community Renewal state funded programs must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances which could affect the health and safety of occupants or users or conflict with the intended utilization of the property. Consideration must be given to the subject property and adjacent sites in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes. Examples of areas that contain, or may have contained, hazardous wastes include, but are not limited to: dry cleaning facilities, producers of plastics, producers of medicines, waste water treatment facilities, and chemical manufacturing plants.

Each site must be evaluated by an environmental professional to determine if the site is located on or near any hazardous materials or contamination. An environmental professional must provide a certification letter that specifically states:

“The project site is free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances which could affect the health and safety of occupants or users or conflict with the intended utilization of the property. I, [Name], certify that I am an environmental professional as per ASTM 1527.”

If an environmental professional cannot provide the above certification letter, further study must be completed as recommended and the LPA must certify that it has followed all recommendations and, with the guidance of the environmental professional, ensure the site meets this OCR policy. Any further study must be completed as recommended. Documentation must be provided to confirm recommendations have been met prior to undertaking project activities.

For projects receiving more than \$100,000 grant investment, LPAs must provide backup documentation (desktop review, transaction screen, Phase I ESA, etc.) in addition to the certification. Documentation cannot be older than one year from the date of application for funding.

Programmatic Checklist Language:

- If the program involves new construction, demolition, rehabilitation and/or streetscape initiatives, compliance language might be:

“Any building construction, renovation and/or demolition activity within the program’s service area will be assessed to determine its environmental condition. If the condition of the property is unknown, or a possible environmental hazard is suspected, the LPA will proceed with the advice and guidance of an ‘environmental professional.’ If so advised, further study will be completed as recommended. For demolition-only projects a demolition debris and soil management plan will be prepared and followed.”

Site-Specific Checklist Language:

- If potential hazards have NOT been identified, compliance language might be:

“An environmental professional has certified that the project site is free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. Documentation is attached.”

- If potential hazards have been identified, further study must be completed as recommended and documentation provided. Compliance language might be:

“An evaluation identified potential hazards. [LPA Name] certifies that all recommendations provided by the environmental professional have been followed and the site meets OCR policy as documented in the attached.”

- For demolition-only projects compliance language might be:

“The project will comply with the demolition debris and soil management process provided at the programmatic level and a demolition debris and soil management plan will be prepared and followed.”

The American Society for Testing and Materials Standard (ASTM) defines “environmental professional” as:

- A person who holds a Baccalaureate or higher degree in a relevant science or engineering field plus the equivalent of five years relevant work experience OR
- A person who holds a current engineer’s or professional geologist license or registration from a state, tribe or U.S. territory OR
- An official of the site locality’s Building Department with expertise in assessing environmental conditions OR
- A person who has the equivalent of ten years relevant work and field experience in performing environmental site assessments.

F. Lead-Based Paint

All activities in dwelling units or child occupied facilities that were constructed prior to 1978 must be evaluated for hazards posed by lead-based paint. Contractors performing renovation, repair and painting projects that may disturb lead-based paint must be EPA certified and follow specific work practices to prevent lead contamination. The full RRP Rule is available at 40 CFR Part 745, Subpart E, sections 745.80 – 745.92.

Projects involving rehabilitation must comply with the RRP Rule and document compliance by collecting EPA renovator certificates.

Projects involving demolition or new construction must comply with all applicable laws and regulations including:

- Compliant lead in soil test results and/or a statement that all project work will comply with the state standard for lead in soils must be submitted;
- Fugitive dust control measures must be implemented during project demolition and excavation;
- All debris, contaminants, and soils must be properly categorized through Toxicity Characteristic Leaching Procedure (TCLP) testing and disposed of as either C&D or Hazardous Waste, as applicable, in accordance with EPA rules.

Programmatic Checklist Language:

- If the program will involve any buildings constructed prior to 1978 where disturbance of paint may occur, compliance language might be:
“Any activities that will involve the disturbance of painted surfaces will be conducted in accordance with the EPA RRP Rule. Demolition or disposal will comply with all applicable laws and regulations.”

Site-Specific Checklist Language:

- If the project will involve renovation activities that may disturb painted surfaces, all work must be conducted in accordance with the EPA RRP Rules:
“The project involves activities that may disturb painted surfaces. All work will be conducted in accordance with the EPA RRP Rules.”
- If the project involves demolition or new construction (after demolition or on a vacant site with former improvements):
“The project involves demolition or new construction. All work will be conducted in accordance with the applicable laws and regulations associated with dust control, lead in soil, and disposal.”

G. Asbestos Containing Materials

If asbestos-containing materials (ACM) will be disturbed as part of program activities, they must be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56. For projects involving demolition, 12 NYCRR Part 56-11.5 must also be specifically followed.

Exposure to asbestos fibers, a known carcinogenic agent, creates a serious risk to the public safety and health. All work that disturbs ACM must be done by trained workers following special procedures and engineering controls to prevent the spread of asbestos into the air and ensure that ACM have been properly removed.

The NYS Department of Labor instructs that an asbestos survey must be completed by a certified Asbestos Inspector whenever all or part of a building or structure will be demolished, renovated, remodeled or repaired. The survey will determine if the planned work will disturb asbestos material.

Compliance language might be:

“Asbestos Containing Materials (ACM) that will be disturbed as part of program activities will be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56 and local regulations.”

NYS Department of Labor 12 NYCRR Part 56, *Asbestos*, is available online, here: <https://dol.ny.gov/system/files/documents/2021/03/icr56.pdf>

Also see: *Asbestos in New York State Facts and Responsibilities*
<https://dol.ny.gov/system/files/documents/2021/03/p224.pdf>

H. Radon

Project sites or service areas located in Zones 1 and 2 (moderate to high) of the EPA Map of Radon Zones, where new construction or rehabilitation of residential units or residential common areas will occur, must be tested for radon. If elevated levels are encountered, a radon mitigation system must be installed in accordance with EPA *Radon Mitigation Standards*.

Radon gas is regarded as a Group A carcinogen. The United States Environmental Protection Agency (EPA) has set an action level of 4.0 picocuries per liter (pCi/L). An elevated radon level occurs if the results of one long-term test or the average of two short-term tests show radon levels of 4pCi/L or higher. Any radon exposure has some risk. If the level is between 2 and 4 pCi/L, the EPA still recommends corrective measures to reduce exposure to radon gas.

Radon typically moves up through the ground to the air above and into a building through cracks and other holes in the foundation. The building traps radon inside, where it can build up. Any building may have a radon problem. This means new and old buildings, well-sealed and drafty buildings, and buildings with or without basements.

A post-construction radon test is required. Radon testing must be conducted by certified radon testing firms and labs analyzing and providing the results must hold NYS Health ELAP certification. Radon testing instructions dictate that testing should be conducted in the lowest livable floor of a building that is used on a regular basis. If the basement is not used on a regular basis, or the building does not have a basement, testing should be conducted in the next lowest livable floor. Testing must be conducted for all projects assisting residential units or residential common areas.

For new construction projects located in Zones 1 and 2 of the EPA Map of Radon Zones, a passive radon system (the complete system, excluding the fan) must be installed as part of the project, which can be activated by adding a fan, if elevated radon levels are found during post-construction testing.

Programmatic Checklist Language:

- If the service area is in an area with a low radon level, compliance language might be:

“The service area is located in a zone with low potential for radon according to the EPA Map of Radon Zones. Radon testing is not required.”

Source documentation must include: A copy of an EPA Map of Radon Zones that contains the project site or service area.

- If the service area is in an area of moderate to high radon level, compliance language might be:

“The service area is in a zone with moderate or high potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). New construction or rehabilitation of residential units will include post-construction testing and if elevated levels are found, a radon mitigation system will be installed/activated in accordance with EPA Radon Mitigation Standards.”

Site-Specific Checklist Language:

- If the project site is an area of moderate to high radon level and involves rehabilitation of residential units, compliance language might be:

“The project includes assistance to residential units located in an area with high or moderate potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). Radon testing will be conducted post-construction and, if elevated levels are found, a radon mitigation system will be installed in accordance with EPA Radon Mitigation Standards. Documentation of test results or installation of a mitigation system will be provided at project completion.”

- If the project site is an area of moderate to high radon level and the project involves new construction including residential units, compliance language might be:

“The project includes new construction of residential units located in an area with high or moderate potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). A “passive” radon mitigation system has been incorporated into the building design. Radon testing will be conducted post-construction and, if elevated levels are found, an active fan, complete with alarm system, will be installed and re-tested prior to occupancy to determine that radon levels are being maintained below recommended limits. Documentation of test results will be provided at project completion.”

- If the project is in an area of moderate to high radon level and is demolition-only, compliance language might be:

- is:

“The project includes demolition and does not include new construction or rehabilitation. The project is located in an area with high or moderate potential for radon levels to exceed the U.S. EPA action level (4pCi/L or higher). Radon testing or the installation of a “passive” radon mitigation system is not required for demolition-only projects, but will be considered for future redevelopment of the site.”

The EPA Map of Radon Zones can be accessed online, here:

https://www.epa.gov/sites/production/files/2014-08/documents/new_york.pdf

County Map of Certified Radon Testers online, here:

<https://www.health.ny.gov/environmental/radon/testers.htm>

I. Wetlands

Funded projects that involve new construction or ground disturbance may be subject to NYS Department of Environmental Conservation (DEC) and/or U.S. Army Corps of Engineering (ACOE) wetland regulations. Sites in urban, built-up areas do not require a wetlands investigation. For projects with sites outside of urban, built-up areas, with ground-disturbing work, even on previously disturbed land, both the DEC *and* US Fish and Wildlife Maps of jurisdictional wetlands must be consulted. In addition to consultation of wetlands maps, if the Sponsor or HTFC suspects the potential presence of wetlands in the areas to be disturbed, a formal jurisdictional review or qualified biologist delineation may be required to confirm whether wetlands will be disturbed

Under New York State regulations, a permit must be obtained from DEC prior to conducting regulated activities in or within 100 feet of state-protected freshwater wetland areas mapped by the agency. Regulated activities are described in DEC permit regulations at 6 NYCRR Part 663. Within the boundaries of the Adirondack Park, state wetland regulations are administered by the Adirondack Park Agency (APA).

Additionally, Section 404 of the Clean Water Act provides for jurisdiction by ACOE over “waters of the United States,” including most wetland areas, even those that may not be mapped by FWS or DEC. Activities disturbing these areas may be subject to ACOE permitting requirements.

If the project involves new construction or ground disturbance, source documentation must be provided. Documentation includes a map of state-protected wetlands that contains the project site or service area or correspondence with the DEC. A more comprehensive review may be needed for larger projects involving ground disturbance, the LPA will be contacted if that is the determination.

Programmatic Checklist Language:

- If the program involves new construction or ground disturbance and the service area includes areas that are not urban, built-up areas, compliance language might be:

“A wetlands determination will be made prior to the start of work and, if necessary, a permit will be obtained from the DEC or ACOE prior to construction if a project is not in an urban, built-up area and involves new construction or ground disturbance.”

- If the program does not involve new construction, ground disturbance or is entirely within an urban, built-up area with no mapped wetlands and is not adjacent to surface water bodies, compliance language might be:

“The program does not involve new construction, ground disturbance or is entirely within an urban, built-up area with no mapped wetlands and is not adjacent to surface water bodies.”

Site-Specific Checklist Language:

- If the project involves new construction, demolition, or ground disturbance and is not in a built-up area, or if the project is in a built-up area that contains adjacent surface water bodies, compliance language might be:

“The project involves new construction, demolition, or ground disturbance and is not in a built-up area. The project is not located in and will not discharge to a state or federal wetland as documented in the attached.”

OR

“The project involves new construction, demolition, or ground disturbance and is not in a built-up area. The project is located in or will result in a discharge to a state or federal wetland and the required DEC /ACOE permit is attached.

Maps of state-protected wetlands are available online at:

<https://giservices.dec.ny.gov/gis/erm/>

Instructions for creating an Environmental Resource Map

1. Click on the *Search* tab;
2. Enter the address of the project site or an address of the service area and click the search icon;
3. Click on *Layers & Legend* tab;
4. Check the boxes for State Regulated Wetlands **and** National Wetlands Inventory;
5. Zoom in or out as necessary;
6. Click on the Tools tab and then the Print icon;
7. In *Printout Template* select PDF then click on *Print Map*.

J. Endangered Species

Projects that involve new construction, ground disturbance or tree cutting may be subject to endangered and threatened species regulations. Project sites must be checked on the NYS Department of Environmental Conservation (NYSDEC) Environmental Assessment Form (EAF) Mapper *and* the US Fish and Wildlife Service's (FWS) Information for Planning and Consultation Tool must be used to obtain an official federal species list. An endangered species investigation may be required if it is determined that state or federal species could be impacted by project activities.

1. If the project involves new construction, ground disturbance and/or tree cutting use the NYSDEC Environmental Assessment Form (EAF) Mapper: <https://giservices.dec.ny.gov/eafmapper/> If a project with site disturbance is in an area of endangered, threatened, or rare plants or animals, or significant natural communities, a request for information should be submitted to New York State Natural Heritage Program. Provide the resulting documentation and correspondence.
2. If new construction, ground disturbance and/or tree cutting is involved, follow the directions provided on the US Fish and Wildlife Service's (FWS) website and use the Information for Planning and Consultation Tool (IPaC): <http://ecos.fws.gov/ipac/> Provide the resulting documentation, demonstrating if any federally-listed rare, threatened, or endangered species or habitats exist on the site.

Programmatic Checklist Language:

- *"The NYSDEC Environmental Assessment Form (EAF) Mapper will be utilized for projects that involve new construction, ground disturbance or tree cutting. If a project with site disturbance is in an area of endangered, threatened, or rare plants or animals, or significant natural communities, a request for information will be submitted to New York State Natural Heritage Program. If new construction, ground disturbance or tree cutting is involved, an official species list from the US Fish and Wildlife Service Information for Planning and Consultation website will be provided."*

Site-Specific Checklist Language:

- *"The project is in a built-up urban area and does not involve new construction, ground disturbance, or tree cutting."*
- *"The project involves new construction, ground disturbance and/or tree cutting. The Environmental Assessment Form (EAF) Mapper did not identify any state endangered, threatened, or rare plants or animals or significant natural communities. The US Fish and Wildlife Service Information for Planning and Consultation tool did not identify federally-listed rare, threatened, or endangered species or habitats on the site as documented in the attached."*

Or

- *"The project involves new construction, ground disturbance and/or tree cutting. The project site is within an area of rare plants or animals. The Environmental*

Assessment Form (EAF) Mapper documentation and correspondence with the NYS Natural Heritage Program is attached. An official species list from the US Fish and Wildlife Service Information for Planning and Consultation tool is attached.”

Copies of Environmental Resource maps, correspondence with the New York State Natural Heritage Program (NYNHP) and the documentation created pursuant to the USFWS search should be included as source documentation. A more comprehensive review may be needed for larger projects involving ground disturbance and/or tree cutting/removal.

Instructions for using the Environmental Assessment Form Mapper

- Go to the Environmental Assessment Form Mapper webpage - <https://giservices.dec.ny.gov/eafmapper/>
- Step 1: Enter the address and click “Locate”
- Step 2: Zoom in until you see the tax parcel boundaries. Select “Select Tax Parcel” and click on the parcel of the project site.
- Step 3: Select “**Full Form, Part 1**”. A pop-up window with the PDF will be generated.
- Step 4: Refer to the EAF Mapper Summary Report (Questions E.2.n, o, and p) to identify if any threatened, endangered or rare species exist on the site.

Instructions for using the Information for Planning and Consultation Tool (IPaC)

1. Go to the US Fish and Wildlife Service’s (FWS) website and use the Information for Planning and Consultation Tool (IPaC): <http://ecos.fws.gov/ipac/>;
2. Select Get Started if an account has not already been set-up;
3. Enter project location and select address;
4. Define the project area;
5. Click continue;
6. Click Define Project;
7. Enter log in information for an established account or create an account;
8. Once logged in, provide a project name and description;
9. Click on Request Species List;
10. Click Yes, Request a Species List;
11. Provide contact information and Submit Official Species List Request;
12. Once processing is complete select Species List: New York Ecological Services Field Office, this is the required Official Species List that should be submitted with the Environmental Checklist

K. Agricultural Districts

New York State Agriculture and Markets Law requires site review if the project involves conversion of farmland to nonagricultural use in a state Agricultural District certified pursuant to Agriculture and Markets Law, Article 25-AA, sections 303 and 304. Any project that is not considered replacement in-kind and within the same footprint or involves new construction is also subject to section 305(4). If this type of project is located within a county-adopted NY State certified agricultural district, a Notice of Intent (NOI) to undertake an action within an Agricultural District must be completed by HTFC and submitted to the Commissioner for New York State Department of Agriculture and Markets.

Additionally, any project requiring a special use permit, site plan, subdivision approval or use variance, which requires approval by a planning, zoning, town or village board must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district. The clerk of the appropriate governmental entity is required to complete and submit the ADS.

Sample compliance language:

Programmatic Checklist Language:

“The program service area does not involve any activities with potential to convert farmland to nonagricultural use and does not require an Agricultural Data Statement.”

or

“The program service area includes New York State Agricultural Districts. All new construction sites will be reviewed to determine whether their location is situated in a New York State Agricultural District and whether or not a site is within 500 feet of a farm operation in an Agricultural District and requires a local approval.”

Site-Specific Checklist Language:

- If the project is not located in an agricultural district, does not involve activities with potential to convert farmland to nonagricultural use, or an ADS is not required, compliance language might be:

“The project is not located in an agricultural district or does not involve any activities with potential to convert farmland to nonagricultural use and does not require an Agricultural Data Statement.”

- If the project site is within 500 feet of a farm operation in an Agricultural District and requires a local approval such as special use permit or planning board approval, the municipality must provide an Agricultural Data Statement (ADS), compliance language might be:

“The project site is within 500 feet of an active farm operation and the project requires local approval, an Agricultural Data Statement is attached.”

- If the project includes new construction, site disturbance, or is not considered replacement in-kind and within the same footprint and is located in a state Agricultural District, compliance language might be:

“The site is within a New York State Agricultural District, EAU will be contacted to begin the consultation process with the New York State Department of Agriculture and Markets.”

In this case, copies of Agricultural District maps, a complete site plan of the work to occur, a copy of the ADS and a complete project description should be included as source documentation for site specific reviews.

Local Agricultural District contact information and County Agricultural District Map Data can be accessed online, here:
<https://cugir.library.cornell.edu/catalog/cugir-009010>

L. Smart Growth

The State Smart Growth Public Infrastructure Policy Act, Environmental Conservation Law, Article 6 (Smart Growth Act) is intended to minimize unnecessary costs of sprawl facilitated by the funding or development of new or expanded transportation, sewer and

wastewater treatment, water, education, housing and other publicly supported infrastructure inconsistent with smart growth public infrastructure criteria.

Under the Smart Growth Act, the state infrastructure agencies may not approve, undertake, support or finance a public infrastructure project, including providing grants, awards, loans or assistance programs, unless, to the extent practicable, it is consistent with the relevant smart growth criteria.

An initial assessment is made to determine if public infrastructure is part of the proposed project. This assessment is based on documents submitted by the LPA, including a preliminary Smart Growth Criteria Form, which will provide information on how the project considered or will consider Smart Growth infrastructure criteria during its development. The Form will then be reviewed to determine consistency with the eleven smart growth criteria if the project includes public infrastructure.

Programmatic Checklist Language:

- *“No aspects of the projects to be funded by any funding source, including NYSHCR/HTFC: (i) involve the acquisition, new construction of, or expansion or reconstruction of infrastructure such as roads, sewers, water lines or sidewalks; and, (ii) such infrastructure is open and accessible to the public; and, (iii) such infrastructure is not owned and used solely by the project. The Smart Growth Criteria Form is attached. If any project circumstances change, a new Smart Growth Criteria Form will be submitted.”*

Site-Specific Checklist Language:

- *“No aspect of the project to be funded by any funding source, including NYSHCR/HTFC: (i) involve the acquisition, new construction of, or expansion or reconstruction of infrastructure such as roads, sewers, water lines or sidewalks; and, (ii) such infrastructure is open and accessible to the public; and, (iii) such infrastructure is not owned and used solely by the project.”*
- *“The project does: (i) involve the acquisition, new construction of, or expansion or reconstruction of infrastructure such as roads, sewers, water lines or sidewalks; and, (ii) such infrastructure is open and accessible to the public; and, (iii) such infrastructure is not owned and used solely by the project. A Smart Growth Criteria Form has been completed and is attached.”*